

EXHIBIT 4

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

BERNADINE T. GRIFFITH)

Plaintiff,)

v.)

C.A. No. 03-CV-12573-EFH

ONEBEACON INSURANCE COMPANY,)
ONEBEACON AMERICA INSURANCE)
COMPANY, MICHAEL A. SISTO, and)
KAREN ALLEN HOLMES)

Defendants.)

I, LEAH M. MOORE, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury that the following is true and correct:

1. I am an associate at the law firm of Morgan, Brown & Joy, LLP, One Boston Place, Boston, Massachusetts 02108-4472, telephone number (617) 523-6666, attorneys for Defendants OneBeacon Insurance Company, OneBeacon America Insurance Company (together, "OneBeacon"), Michael A. Sisto, and Karen Allen Holmes (collectively, the "defendants") in the above captioned matter.

2. On multiple occasions, Counsel for the plaintiff Attorney Kathleen J. Hill ("Attorney Hill") has both verbally and in writing conveyed, at length, that she intends to consolidate her two actions, the above referenced Action and Civil Action Number 04-CV-10605, based upon the same set of facts despite the fact that Judge Edward F. Harrington order her to amend her above referenced 2003 Complaint to include the

allegations in her second, identically-styled 2004 Complaint, also before His Honor. The most recent of these communications occurred by telephone on June 29, 2004, which Attorney Hill documented in writing.

3. Attorney Hill has been aware of the defendants' concern about the two nearly identical actions pending separately before this Court since mid-April 2004 when counsel for both parties agreed to extend the time for the defendants to respond to the plaintiff's 2004 Complaint which was memorialized in an assented to Motion filed with this court on April 20, 2004.

4. I contacted Attorney Hill to make her aware that the defendants in the above referenced Action required additional time to make their initial disclosure and that the defendants would respond on or before July 6, 2004. On July 6, 2004, I served Attorney Hill with the defendants' Initial Disclosure in the 2003 Action, a true and accurate copy of which can be found at Exhibit 3.

5. Attorney Hill and I had several conversations regarding her belief that the defendants' Initial Disclosure was inadequate. On all of these occasions I reiterated the defendants' position that their initial disclosure was accurate and was responsive to the 2003 Action. When Attorney Hill referenced the 2004 Action in these conversations, I stated that the defendants' believed she was required to amend by the Court's May 12, 2004 Order. At no time did I inform Attorney Hill that I had sent the wrong initial disclosure.


6. When Attorney Hill served William Queenan with a deposition subpoena *duces tecum*, I contacted Mr. Queenan to determine his involvement with the case. At that time, Mr. Queenan did not remember being involved with the plaintiff during her

tenure with OneBeacon or when her case when it was before the Massachusetts Commission Against Discrimination (MCAD).

7. On August 18, 2004, Attorney Hill and I spoke regarding the defendants' objection to the service of a deposition subpoena *duces tecum* upon William Queenan. At that time I explained to Attorney Hill the defendants' belief that her subpoena was procedurally inappropriate and that were she to submit a document request to the defendants, they would consider her requests at that time. Attorney Hill stated that she served the same subpoena *duces tecum* upon Mr. Queenan when the matter was before the MCAD. I explained to Attorney Hill that the rules governing procedure at the MCAD were different from those governing procedure in the federal court system. Attorney Hill stated that this was not the case and that she would file a motion to compel.

8. At no time was Attorney Hill an attorney of record for the plaintiff Bernadine Griffith in any of her cases before the MCAD despite the fact that Attorney Hill contends that the deposition subpoena *duces tecum* she served upon William Queenan was identical to the one she served upon him when the case was before the MCAD.

Dated: August 30, 2004



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